

**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

San Diego Gas & Electric Company,
Complainant,

v.

Docket No. EL00-95-045

Sellers of Energy and Ancillary Service Into
Markets Operated by the California
Independent System Operator Corporation
and the California Power Exchange,
Respondents.

Investigation of Practices of the California
Independent System Operator and the
California Power Exchange

Docket No. EL00-98-042

ORDER APPROVING REVISED JOINT STIPULATION OF ISSUES ON 202(c)

(Issued April 23, 2002)

1. This order adopts the revised Joint Narrative Stipulation (JS) of 202(c) issues filed on April 18, 2002, with the following changed paragraphs. The changes shown below are due to stipulations entered into between NCPA and Staff and NCPA and the ISO.

52. *NCPA Position:* The three sales at issue were made on certification days.

55. *Portland Position:* Per trial stipulation (TS-1), all of Portland's transactions being claimed were conducted on certification days. Therefore, Portland takes no position on this issue.

63. 2) Intentionally left blank to preserve numbering.

74. *ISO Position:* In order to distinguish sales made pursuant to the DOE Orders from sales made for other reasons, the ISO relied on notations made on the OOM sheets by ISO operations personnel. These notations were made when a supplier explicitly indicated that Energy was being provided pursuant to the DOE Orders, or when ISO operations personnel contacted suppliers requesting that they deliver the Energy they stated was available as "excess" Energy pursuant to the DOE Order. Thus, the ISO adopted a neutral standard, and entities that wished to make clear their intentions could do

so, and did so. Additionally, several suppliers have provided contemporaneous evidence demonstrating that the sales discussed were made pursuant to 202(c), although the ISO's OOM sheets did not identify those sales as 202(c) sales. (ISO-10 at 9:5-12:17, 13:5-10; ISO-21 at 14:12-16:9, 17:1-22:9, 21:13-22:19; ISO-34R)

82. *NCPA Position:* NCPA's internal records, including responses to the ISO prior-day requests for energy and dispatch notes, support NCPA's position that its sales were made pursuant to the DOE orders. On each of the days on which sales were made, NCPA was specifically contacted by telephone to provide energy to the CAISO. At the time of the first request, on December 20, NCPA staff made it clear that they would only have energy to provide under the "new ruling from DOE." (NCP-1 at 3:15-4:23; NCP-4 at 3:8-25; NCP-6 at 1).

113. 2) Intentionally left blank to preserve numbering.

124. *ISO Position:* Sales made during the period in which the DOE Orders were in effect by certain municipal entities listed in ISO Operating Procedure E-516 were made pursuant to that Procedure rather than Section 202(c). Sales made by LADWP during the period in which the DOE Orders were in effect were made pursuant to Schedule 13 of the Interconnected Control Area Operating Agreement rather than Section 202(c). (ISO-21 at 17:1-19:19)

192. *Portland Position:* Per trial stipulation (TS-1), Portland has no transactions being claimed as DOE transactions on January 9, 2001.

200. *ISO Position:* The ISO set forth the sales it considers to have been made pursuant to Section 202(c) in Exhibit No. ISO-15. Additionally, several suppliers have provided contemporaneous evidence demonstrating that sales were made pursuant to 202(c), although the ISO's OOM sheets did not identify those sales as 202(c) sales. (ISO-15; ISO-21 at 16:11-21)

208. *NCPA Position:* NCPA made three sales pursuant to Section 202(c). (NCP-1 at 2:8-11).

211. *Portland Position:* The transactions on PGE-2 (second revised) are DOE sales. Also see PGE-17; PGE-19; PGE-22.

217. *Staff Position:* With the exception of the transactions on January 9, 2001 where the price exceeded \$64/MWh, the Staff agrees with the ISO that the transactions identified on ISO-15 were DOE transactions. Based on the evidence presented, the Staff disagrees that entities covered by the ICAOA, ESA and/or E-516 were precluded from providing energy under the DOE Orders. (S-1 and S-33).

Bruce L. Birchman
Presiding Administrative Law Judge